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December 11, 2015

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation; CG Docket No. 02-278

Dear Ms. Dortch:

On December 10, 2015, Martha Duggan, Senior Principal, Regulatory Affairs for the National Rural Electric Cooperative Association (“NRECA”) and Tracy Marshall, Partner, Keller and Heckman LLP and counsel to NRECA, met with Amy Bender, Legal Advisor, Office of Commissioner O’Rielly, to discuss the *Petition for Expedited Declaratory Ruling* filed by the Edison Electric Institute and American Gas Association in the above-referenced proceeding (the “EEI Petition”)¹ and comments filed by NRECA in support of the EEI Petition.² The petitioners and NRECA urge the Commission to declare that providing a number, in particular a wireless number, to an energy utility constitutes “prior express consent” under the Telephone Consumer Protection Act of 1991 (“TCPA”) and FCC rules³ to receive non-telemarketing, informational calls and texts at such number that relate to the customer’s utility service.

¹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Petition for Expedited Declaratory Ruling of the American Gas Association and Edison Electric Institute*, CG Docket No. 02-278 (Feb. 12, 2015).

² Comments of the National Rural Electric Cooperative Association, *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Petition for Expedited Declaratory Ruling of the American Gas Association and Edison Electric Institute*, CG Docket No. 02-278 (March 26, 2015).

³ 47 U.S.C. § 227(b); 47 C.F.R. § 64.1200(a)(1).

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NRECA explained that its members include more than 900 rural electric cooperatives located in 47 states, covering 75% of the nation's land mass and serving 12% of the U.S. population, including many low-income customers. The participants discussed the types of non-telemarketing, informational calls and texts that electric cooperatives send to their member-owners, which are critical to providing safe, affordable, efficient, and reliable service and meeting the cooperatives' obligations to the communities they serve. NRECA provided a handout that describes these issues in more detail, a copy of which is enclosed.

NRECA explained that some cooperatives have stopped sending automated calls and texts due to the threat of TCPA litigation, and some cooperatives' customers have complained about not receiving important calls and texts as a result. The handout summarizes comments NRECA has received from some electric cooperatives that highlight the importance of these communications to their customers.

NRECA urges the Commission to promptly grant the EEI Petition.

This notice is being filed electronically in the above-referenced proceeding, pursuant to Section 1.1206(b)(2) of the Commission's rules. Please contact me with any questions.

Respectfully submitted,

/s/ Tracy P. Marshall

Tracy P. Marshall
Counsel to NRECA

Enclosure

cc: Amy Bender



**National Rural Electric
Cooperative Association**

A Touchstone Energy® Cooperative

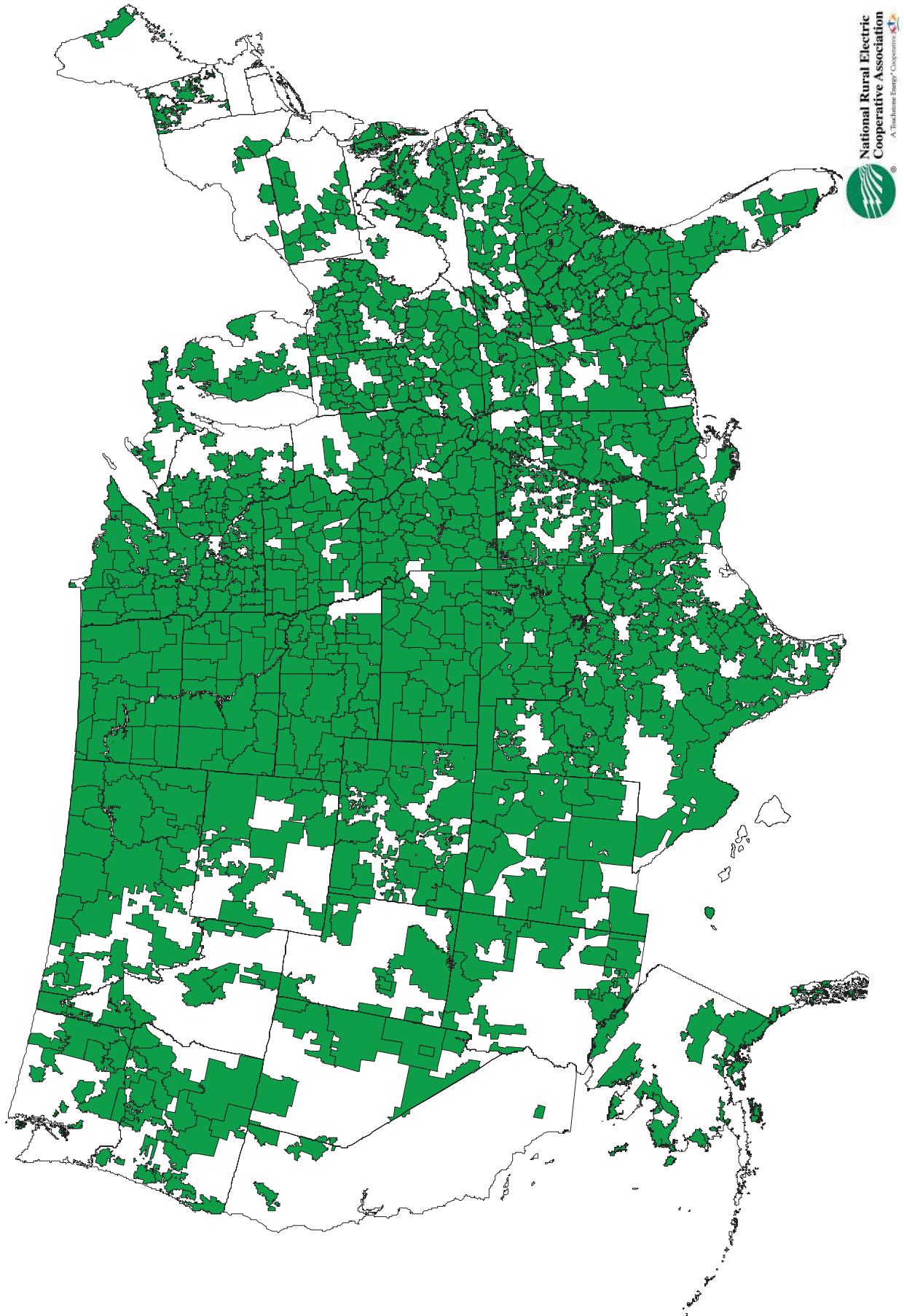
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Electric Cooperative Communications with Our Member-Owners

Impacts of the Telephone Consumer Protection Act

Updated as of December 9, 2015

Counties in Which Electric Distribution Co-ops Serve



Rural Electric Cooperatives — By the Numbers

- 930 Consumer-Owned and - Governed Utilities:
- 42 million consumer owners
- 47 States
- 12% of the Population
- 2.3 Million Miles of Line (42% of Nation's Total Distribution Plant)
- Built, Own & Operate 54,000 MW of generation
- Service Area Covers 75% of Nation's Land Mass
- Employ 70,000 people in the U.S.
- Pay \$1.4 billion in state and local taxes annually

- Median Per Capita Income of Co-op Consumers = 21% Below the National Average (or \$21,435)
- Serve the vast majority of the nation's persistent poverty counties (327 out of 353, or 90%).
- These counties have deeply entrenched poverty with rates consistently 20% or above for the last three decades

Types of Automated/Robo Calls and Texts Member Co-ops Make

- Outages
- Restoration
- Tree Trimming
- Prepayment balances
- Disconnection for non-pay



What NRECA Is Doing to Address the TCPA

- Webinar presented on November 1, 2013.
- Information sent out to Legal and Financial communities advising caution.
- Recommendations to update membership application to include express consent.
- Recommendations to reach out to customers to request express consent.
- Featured panels at NRECA's 2015 Legal Seminars
 - Held in 2 locations (San Antonio TX and Asheville NC)
 - Approximately 300 lawyers (in house and outside counsel to electric cooperatives) attended.
- Articles published in NRECA's Legal Review
 - Readership of approximately 1,000



Poll of NRECA Member CEOs (Aug. 2015)

- Three questions:
 - Have you stopped autodialing, robocalling or texting your member owners?
 - If yes, have member owners expressed concern/complained about it?
 - If yes, how many complaints have you received?
- 140 responses as of 12/9/2015
 - Of the 109 co-ops that make or have made autodialed, robocalls, or text messages 27 have stopped.

NRECA Member Response

Complaints from member-owners when calls and/or texts were STOPPED:

- “I would estimate for the first few months we received 15 or so calls per week. We are a 18,000 meter system.”
- “I would estimate . . . approximately 50 complaints each month and I feel that the complaints will continue.”
- “We had an immediate response when service was disconnected for nonpayment and members did not receive the call. An estimate of the number of comments/complaints since July 31 is 100.”
- “We have received over 1000 calls asking that the service be reinstated.”
- “Approximately 150 complaints per month.”
- “we have had complaints from our members who said they wish they would have known about the outage. I'd say 15% of the members who were impacted will complain.”
- “Probably 50 complaints total.”
- “When we suspended these calls we received several complaints from our members . . . We had over seventy people call and complain that we no longer were concerned about their accounts and they felt we were getting just like the big companies.”
- “Yes our members have complained that they liked the meeting reminders, payment and account information calls and other informational calls. At almost every member committee meeting, member Zone meetings, and the like, we hear comments or are asked questions as to why those calls are not being made.”
- “[about] 125 in the couple of months following the practice being discontinued.”

NRECA Member Response

Comments from co-ops that have not stopped autodialed calls, robocalls or text messages:

- “The only complaints we have received are when people say they don’t receive our phone calls... Both for disconnect for non-pay or outages. We constantly receive thankful comments from members whenever we remind them about needed payments or provide outage information.”
- “We also make courtesy call-outs each week to members coming up on the next nonpay disconnect list. Unfortunately, many members really depend on those ‘last minute’ reminders instead of reading the cut-off dates on their bills.”
- “...if we have technical issues with the IVR that prevent a dial out, members get very upset that they were not called prior to a disconnect. We disconnect an average of 150 members per day.”
- “...last week we unexpectedly lost one of our outgoing dialing circuits. As a result, many of our outbound automated calls went undelivered. That said, we had quite a few members call us stating they were disappointed that we were unable to deliver the low balance and pending disconnect messages they have come to appreciate.”
- “We have found that our members LOVE these notifications and get upset when they do not get them. We cancelled our delinquent reminders during an ice storm a few years back and got numerous (emphasis in original) complaints that these did not go out.”

Questions or Comments?

Martha Duggan – Sr. Principal, Regulatory Affairs
National Rural Electric Cooperative Association
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